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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,042	06/29/2006	John Alexandre Boudry	MARKS 5322	1036
27667 7590 04/01/2009 HAYES SOLOWAY P.C. 3450 E. SUNRISE DRIVE, SUITE 140 TUCSON, AZ 85718				
EXAMINER				
BOCHNA, DAVID				
ART UNIT		PAPER NUMBER		
3679				
MAIL DATE		DELIVERY MODE		
04/01/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,042

Applicant(s)

BOUDRY ET AL.

Examiner

David E. Bochna

Art Unit

3679

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-87 is/are pending in the application.
- 4a) Of the above claim(s) 20-59 and 87 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 60-65, 68-72 and 74-86 is/are rejected.
- 7) ☒ Claim(s) 66, 67, 73 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 20-59 and 87 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/15/08.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter of claims 6469, 72 and 80 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 60 and 80 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 60, line 6 – it is unclear what is meant by “GPR”.

Claim 60, line 9 – the phrase “the fitting to the fitting to the pipe assembly” is unclear as to what exactly is being claimed.

Claim 80 - it is unclear what is meant by the phrase “and to encapsulate the at least one of said flanges in adhesive”. Is the flange encapsulated in adhesive, or is the flange capable of being encapsulated in adhesive?

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 60 and 83 are rejected under 35 U.S.C. 102(b) as being anticipated by

EP1038140.

In regard to claim 60, EP1038140 discloses (fig. 5) a fitting for providing a substantially fluid tight seal between an opening in a chamber wall and a pipe assembly, said fitting comprising:

(i) a first portion comprising a radially extending first flange 52, a first surface of said first flange being configured to contact the chamber wall 10 around substantially the entire circumference of the first flange, said first flange being adapted to bond to GRP, the first portion further comprising a tubular portion 50 extending away from the flange, and a tubular sleeve 56 formed from an electyrofusible plastics material, said tubular sleeve being joined in a substantially fluid tight seal (via 58) to the tubular portion and adapted to couple the fitting to the fitting to the pipe assembly;

(ii) a second portion comprising a radially extending second flange 40, a first surface of said second flange being configured to contact the chamber wail around substantially the entire circumference of the second flange, said second flange being adapted to bond to GRP; and

(iii) a coupling device 42 adapted to secure the first portion to the second portion.

In regard to claim 81, the fitting in combination with electrofusion couplings 44.

In regard to claim 82, where the electrofusion couplings 44 are expanders or reducers.

In regard to claim 83, the fitting further comprises a test point valve 66.

7. Claims 60-62, 68, 70-71, 75, 78-80 and 84-86 are rejected under 35 U.S.C. 102(b) as being anticipated by Greene '424.

In regard to claim 60, Greene discloses (fig. 2) a fitting for providing a substantially fluid tight seal between an opening in a chamber wall and a pipe assembly, said fitting comprising:

(i) a first portion comprising a radially extending first flange 22, a first surface of said first flange being configured to contact the chamber wall 30 around substantially the entire circumference of the first flange, said first flange being adapted to bond to GRP, the first portion further comprising a tubular portion 12 extending away from the flange, and a tubular sleeve 48 formed from an electrolytically fusible plastics material (cross hatching appears to show all of the components are constructed of plastic except 14), said tubular sleeve 48 being joined in a substantially fluid tight seal (via threads) to the tubular portion 12 and adapted to couple the fitting to the fitting to the pipe assembly;

(ii) a second portion comprising a radially extending second flange 32, a first surface of said second flange being configured to contact the chamber wall around substantially the entire circumference of the second flange, said second flange being adapted to bond to GRP; and

(iii) a coupling device (threads) adapted to secure the first portion 12 to the second portion 14.

In regard to claim 61, wherein the first portion 12 is adapted to extend through the opening in the chamber wall.

In regard to claim 62, wherein the tubular portion 12 and tubular sleeve 48 of the first portion overlap for a proportion of their length, the fluid tight seal between the tubular portion and tubular sleeve being formed in that overlapping region.

In regard to claim 68, wherein the first flange 22 is an integral part of the first portion.

In regard to claim 70, wherein the second portion further comprises a second tubular portion 14 or collar extending away from the second flange 32.

In regard to claim 71, wherein the second flange 32 is an integral part of the second portion 14.

In regard to claim 75, wherein the first flange 22 and first tubular portion 12 are made of a plastic material that bonds satisfactorily to GRP.

In regard to claim 78, wherein the coupling device comprises complementary screw threaded regions (20 and threads on 14) on the first and second portions such that the two portions screw together, clamping the chamber wall(s) 30 between the first 22 and second 32 flanges.

In regard to claim 79, wherein the complementary screw threaded regions are located on the outside 12 of the first portion and on the inside of the second portion 14.

In regard to claim 80, wherein the fitting further comprises a cover 18 adapted to cover at least one of said flange(s) and to encapsulate the at least one of said flange(s) in an adhesive.

In regard to claim 84, wherein the pipe assembly is a said secondarily contained pipe assembly comprising a primary supply pipe contained within a secondary pipe (this is an intended use limitation as the claim is only drawn to the fitting and not the fitting in combination with the supply pipe).

In regard to claim 85, wherein the said pipe assembly is a primary supply pipe (this is an intended use limitation as the claim is only drawn to the fitting and not the fitting in combination with the supply pipe).

In regard to claim 86, the fitting is incorporated into an underground pipework (an in ground swimming pool).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 60-64, 70 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breay et al. '836.

In regard to claim 60, Breay et al. discloses (fig. 2) a fitting for providing a substantially fluid tight seal between an opening in a chamber wall 12 and a pipe assembly 18, said fitting comprising:

(i) a first portion comprising a radially extending first flange 29, a first surface of said first flange being configured to contact the chamber wall 12 around substantially the entire circumference of the first flange, said first flange being adapted to bond to GRP, the first portion further comprising a tubular portion 28 extending away from the flange, and a tubular sleeve 20, said tubular sleeve 20 being joined in a substantially fluid tight seal (via 104) to the tubular portion 28 and adapted to couple the fitting to the fitting to the pipe assembly;

(ii) a second portion comprising a radially extending second flange 14, a first surface of said second flange being configured to contact the chamber wall around substantially the entire circumference of the second flange, said second flange being adapted to bond to GRP; and

(iii) a coupling device (threads) adapted to secure the first portion 28 to the second portion 14. Breay et al. does not disclose that the tubular sleeve 20 is made from plastic.

However, it would have been obvious to one of ordinary skill in the art to make the sleeve out of

plastic because the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

In regard to claim 61, wherein the first portion 28 is adapted to extend through the opening in the chamber wall 12.

In regard to claim 62, wherein the tubular portion 28 and tubular sleeve 20 of the first portion overlap for a proportion of their length, the fluid tight seal 104 between the tubular portion and tubular sleeve being formed in that overlapping region.

In regard to claim 63, wherein the fitting further comprises a sealing device 104 located between the tubular portion 28 and the tubular sleeve 20, the sealing device being adapted to form a fluid tight seal between the tubular portion and the tubular sleeve.

In regard to claim 64, the sealing device comprises an o-ring 104 sealed in circumferential channel around either the tubular portion or the tubular sleeve.

In regard to claim 70, where to the second portion 14 further comprises a second tubular portion or collar extending away from the second flange 14.

In regard to claim 74, the first flange 29 and first tubular portion 28 are made of a metal.

10. Claims 65, 69 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greene '424.

In regard to claim 65, wherein the fitting further comprises an inner tubular portion 50, and adapted to fit tightly inside the fitting in the region in which the tubular portion 12 and tubular sleeve 48 overlap. Greene does not disclose that the inner tubular portion is made of metal. However, it would have been obvious to one of ordinary skill in the art to make the inner

tubular portion out of metal because the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

In regard to claims 69 and 72, Greene discloses the flanges 22 and 32 and first 12 and second portions 14 as an integral parts. However, it would have been obvious to make the second portion and flange in two separate pieces because one-piece construction, in place of separate elements fastened together, is a design consideration within the skill of the art. In re Kohno, 391 F.2d 959, 157 USPQ 275 (CCPA 1968); In re Larson, 340 F.2d 965, 144 USPQ 347 (CCPA 1965).

Allowable Subject Matter

11. Claims 66-67 and 73 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hawkinson et al., Nordstrom, Yeh, Rowe, Medvick, Laurizio, Rosan, Nakaji and Stewart all disclose similar couplings common in the art.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Bochna whose telephone number is (571) 272-7078. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David E. Bochna/
Primary Examiner, Art Unit 3679